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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,193	10/24/2000	Brian Pulito	LOT-2000-0036	1639

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EXAMINER	
DUONG, OANH L	
ART UNIT	**PAPER NUMBER**
2155	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/695,193	PULITO ET AL.	
	Examiner	Art Unit	
	Oanh Duong	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 March 2002* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 14-26 are presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/22/2005 has been entered.

Claim Objections

3. Claims 14 and 20 are objected to because of the following informalities:

Claims 14 and 20 recites the limitation "the selected plurality of client processes". There is insufficient antecedent basis for this limitation in the claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 14 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The feature "selected of the plurality of client processes" in claims 14 and 20 does not have a clear meaning. For the purpose of examination, examiner interprets "selected of the plurality of client processes" as selecting at least one of the plurality of client processes".

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 20 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/695,203. Although the conflicting claims are not identical, they are not patentably distinct from each other because modifications are obvious.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within the genus). "ELILILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30,2001).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 14-15 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Chu et al. (Chu) (US 6,683,858 B1).

Regarding claim 20, Chu teaches a method for enabling conferencing over a computer network (Fig. 1) comprising:

(A) identifying a first of the selected plurality of client processes which is transmitting an active stream from a first single audio source (i.e. determining/identifying clients who are currently active speakers or client process which is transmitting an active stream, col. 2 lines 25-27);

(B) retransmitting the active audio stream of the first identified client process to others of the plurality of client processes in unmixed form (i.e., sending the multiplexed/unmixed stream to each of clients, col. 2 lines 37-39),

(C) identifying a second of the selected plurality of client processes which is transmitting an active audio stream from a second single audio source (i.e. determining/identifying clients who are currently active speakers or client process which is transmitting an active stream, col. 2 lines 25-27); and

(D) retransmitting the active audio streams of the first and second audio sources associated with the identified first and second client processes, respectively to

others of the plurality of client processes in unmixed form (i.e., sending the multiplexed/unmixed stream to each of clients, col. 2 lines 37-39).

Regarding claim 21, Chu teaches the method of claim 20 wherein the selected plurality of client processes are configured to receive the first and second active audio streams in unmixed form from the server process and to mix the first and second active audio streams into a form suitable for presentation (i.e., multiplexed packets are received and mixed at clients, col. 4 lines 50-52).

Claim 14 represents a system that is parallel to claim 20. Claim 14 does not teach or define any new limitation above claim 20 and therefore is rejected for similar reasons.

Claim 15 does not teach or define any new limitation above claim 21 and therefore is rejected for similar reason.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 16-19 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of VanDeusen et al. (VanDeusen) (US 6,598,172 B1).

Regarding claim 22, Chu teaches the method of claim 20.

Chu does not teach modifying one of the time stamp, source identifier and sequence number of the packet headers in the active stream of audio packets.

VanDeusen teaches modifying one of the time stamp and source identifier of the packets headers in the active stream of audio packets (col. 2 lines 9-12 and col. 4 line 23-col. 5 line 38).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Chu to modify one of the time stamp and source identifier of the packets headers in the active stream of audio packets as in VanDeusen. One would be motivated to do so to allow the time stamps of the audio packets to be adjusted in order to compensate for any differential between the encoding and decoding clocks (VanDeusen, col. 5 lines 30-33).

Regarding claim 23, Chu-VanDeusen teaches the method of claim 22 further comprising:

(B1a) retransmitting the packets of the active stream of audio packets to others of the plurality of client processes (col. 5 lines 44-47).

Chu does not explicitly teach the packets are modified packets.

VanDeusen teaches the packets are modified packets (col. 2 lines 9-12 and col. 4 line 23-col. 5 line 38).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Chu to modify the packets as in VanDeusen. One would be motivated to do so to allow the time stamps of the audio packets to be adjusted in order to compensate for any differential between the encoding and decoding clocks (VanDeusen, col. 5 lines 30-33).

Regarding claim 24, Chu-VanDeusen teaches the method of claim 20 wherein selected of the plurality of client processes are configured to transmit an active stream of video data (VanDeusen, col. 5 liens 20-23).

Regarding claim 25, Chu-VanDeusen teaches the method of claim 24 further comprising:

(E) identifying one of the selected plurality of client processes which is transmitting an active video/audio stream (Chu, col. 2 lines 25-27).

Regarding claim 26, the method of claim 25 further comprising:

(F) transmitting the active video/audio stream of the one identified client process to others of the plurality of client processes (Chu, col. 2 lines 55-56).

Claim 16 does not teach or define any new limitation above claim 22 and therefore is rejected for similar reason.

Claim 17 does not teach or define any new limitation above claim 23 and therefore is rejected for similar reason.

Claim 18 does not teach or define any new limitation above claim 25 and therefore is rejected for similar reason.

Claim 19 does not teach or define any new limitation above claim 26 and therefore is rejected for similar reason.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 2:00PM - 10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

O.D

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER